

FILED

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION

FEB 18 2010  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                      DEPUTY CLERK

THE UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
0.236 ACRES OF LAND, MORE OR )  
LESS SITUATE IN MAVERICK )  
COUNTY, STATE OF TEXAS; AND )  
THE EAGLE PASS HOUSING )  
AUTHORITY, ET AL, )  
 )  
Defendants. )

CIVIL NO. DR-10-CA-005

**AMENDED UNOPPOSED MOTION FOR  
DELIVERY OF IMMEDIATE POSSESSION**

The United States of America, the Plaintiff herein, pursuant to 40 U.S.C. § 3114(d)(1), moves this Honorable Court to enter the attached agreed order for delivery of possession by The Eagle Pass Housing Authority of the property which is the subject of this suit. The parties have a signed agreement dated January 21, 2010 containing the terms of possession, attached hereto as Exhibit "A". Accordingly, the defendant landowner is in agreement that the government receive immediate possession of the property. A Proposed Order accompanies this Motion.


The undersigned has been advised by the attorney for the Defendant, Paul Fletcher, that his client is not opposed to this motion.

WHEREFORE, Plaintiff United States of America, requests the Court enter the attached order awarding possession to the United States of America according to the terms of that order.

Respectfully submitted,

JOHN E. MURPHY  
UNITED STATES ATTORNEY

BY:

  
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Attorney for Plaintiff  
United States of America

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of February 2010 a true and correct copy of the foregoing Amended Unopposed Motion for Order for Delivery of Possession has been sent certified mail, return receipt requested to all attorney(s) of record as follows:

Paul A. Fletcher  
Langley & Banack, Inc.  
Trinity Plaza II  
745 E. Mulberry, Ste. 900  
San Antonio, Texas 78212-3166

  
KRISTY K. CALLAHAN  
Assistant United States Attorney

AGREEMENT

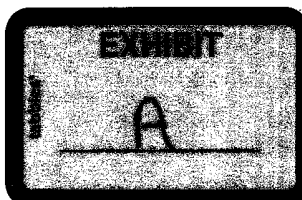
Re: Housing Authority of the City of Eagle Pass (EPHA)  
Tracts: DRT-EGT-1024-1, DRT-EGT-1024-2, DRT-EGT-1024-3, DRT-EGT-1024-E-1, DRT-EGT-1024-E-2

This letter is to memorialize the agreements reached between the Eagle Pass Housing Authority (EPHA) and the United States of America, its contractors, assigns and representatives (USA) as it relates to the USA obtaining possession to the .5 acres more or less, that is the subject of a proposed lawsuit that may be filed by the USA. The term "Property" as used in this agreement refers to Tracts DRT-EGT-1024-1, DRT-EGT-1024-2, DRT-EGT-1024-3, DRT-EGT-1024-E-1, DRT-EGT-1024-E-2 in the Declaration of Taking attached to this letter.

The EPHA and the USA agree as follows:

1. This agreement is effective when the United States files a Declaration of Taking and deposits the just compensation in the United States District Court for the Western District of Texas taking the Property.
2. The United States has agreed to deposit \$20,000 as just compensation for the interests condemned in the Property, and the Eagle Pass Housing Authority has agreed to withdraw this amount as just compensation and the parties agree that the Court may enter a judgment in condemnation that specifies this as the amount of just compensation for the property interests condemned by the United States. This paragraph is subject to the approval of the Board of the Eagle Pass Housing Authority.
3. The Parties agree that the upon filing of the declaration of taking and deposit of just compensation, the United States may file an unopposed Motion and Order for Possession.
4. Construction activity shall occur on the Property only between the hours of 8:00 a.m. and 5:00 p.m. Monday thru Friday. No construction activity shall occur on the weekends or on federal holidays. The USA shall provide for 24-hour security patrol at the Property during the entire time construction activities are ongoing.
5. Any construction activity by the USA shall not block the road or parking spaces adjacent to the Property.
6. The Property shall be temporarily fenced off from the public during the construction activities.
7. At least five (5) days prior to any construction activity the USA shall provide EPHA with a copy of its studies regarding the stability of the slope of the Property, if any, and the USA's proposed engineering plans or drawings reflecting the location and design of the fence for EPHA's information.
8. The USA agrees that it is not their intent to take any structures (including lightpoles) on or near the Property, and the parties stipulate that their agreement on compensation does not include compensation for any improvements taken. If the easement boundaries include structures, the boundaries will be revised to exclude the structures.

(1, 3, 5, 0087900008/0400553.DOC)



or if not revised, the parties agree to meet and confer regarding additional compensation for the affected or impacted structures. If an agreement cannot be reached, the issue will be resolved through the proposed litigation to take the Property.

9. All tools, equipment, and other government owned items placed upon the land by the USA shall remain the property of the USA, shall be promptly removed by the Government, and shall not be left unsupervised.
10. The Government or its contractors will call Ms. Carla Mancha (830-773-3325) or Mr. Rudy Perez (830-773-3325) prior to initial entry onto the subject property and will coordinate with one of them concerning construction activity on the Property. These officials will also serve as the point of contact in the event of an emergency. The Owner will call Alejandro "Alex" Garcia, Construction Project Engineer, Army Corps of Engineers, at (830) 298-3334 or (830) 703-0932 in the event of an emergency or for other purposes.
11. Prior to any construction on the Property, the USA's contractor will provide EPHA with a copy of the general comprehensive liability insurance policy that shall name the Eagle Pass Housing Authority as an additional insured.

This letter agreement regarding the terms and conditions of possession of the condemned real property in the aforementioned suit may be amended, modified or supplemented provided that, any changes to this agreement are in writing and executed by the undersigned or their respective agents or representatives. By signing below, the undersigned represents and warrants that they agree to be bound by the terms and conditions contained herein.

WITNESS MY HAND AND SEAL THIS 21 DAY OF January 2010.

AGREED TO IN FORM AND SUBSTANCE BY:

HOUSING AUTHORITY OF THE CITY OF EAGLE PASS

By:   
Carla Mancha, Executive Director

UNITED STATES OF AMERICA

By:   
Hyla J. Head, Chief, Real Estate Division

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION

THE UNITED STATES OF AMERICA, )

Plaintiff, )

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Defendants. )

CIVIL NO. DR-10-CA-005

**ORDER FOR DELIVERY OF POSSESSION**

Pending before the Court is the uncontested Plaintiff's Motion for Order for Delivery of Possession of the property described in the Complaint filed herein to the Plaintiff. Defendant, The Eagle Pass Housing Authority, does not contest the Plaintiff's motion. The parties agree that the Plaintiff is entitled to possession of said property with certain stipulations contained in the letter agreement executed by the parties dated January 21, 2010, which contains the terms of possession.

IT IS HEREBY **ORDERED** that all defendants to this action and all persons in possession or control of the property described in the Complaint filed herein shall surrender possession of said property to the extent to the estate being condemned, to the Plaintiff immediately.

IT IS FURTHER **ORDERED** that a notice of this order shall be served upon all persons in possession or control of said property forthwith.

SIGNED this \_\_\_\_ day of February, 2010.

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ALIA MOSES LUDLUM  
UNITED STATES DISTRICT JUDGE